COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company and NSTAR Gas Company, Pursuant to G.L.c. 164 § 94, and 220 C.M.R. § 5.00 et. seq. for Approval of a Rate Settlement Effective January 1, 2006	D.T.E. 05-85

COMMENTS OF PRESIDENT
AND FELLOWS OF HARVARD COLLEGE

Date: December 20, 2005

I. INTRODUCTION

The President and Fellows of Harvard College ("Harvard") have reviewed the December 6, 2005 filing made by Boston Edison Company ("BECo"), Cambridge Electric Light Company ("CELCo"), Commonwealth Electric Company ("ComElec") (together, "NSTAR Electric") and NSTAR Gas Company ("NSTAR Gas, collectively with NSTAR Electric, the "Companies"). The filing includes a proposed Settlement Agreement ("Settlement") with the Attorney General of the Commonwealth ("Attorney General"), the Associated Industries of Massachusetts ("AIM"), and the Low-Income Energy Affordability Network ("LEAN").

II. DISCUSSION

As an initial matter, Harvard wishes to commend the Attorney General and other signatories for attempting to mitigate the potentially severe energy cost and heating cost impacts expected this winter and to address many critical issues relating to the Companies' recent service quality problems.

A. Harvard Urges Department Approval Of Major Components Of The Settlement As Filed

First and foremost, Harvard strongly supports the proposed decrease in Transition Costs effective January 1, 2005. Harvard also supports the creation and implementation of a low-income arrearage management program. Given rising energy costs, the proactive implementation to help those hardest hit economically manage their energy bills and consumption is vital. Harvard urges the Department to adopt this component of the Settlement to assist low-income customers without delay and consider its use as a model for other distribution utilities that serve Massachusetts consumers.

Harvard also supports the planned expansion of the storm fund. As last winter demonstrated, the Companies' resources have been strained to capacity to maintain service during winter storm conditions as well as during hurricane season. By planning ahead for adequate resources to respond to those conditions, the quality of the Companies' ability to respond to those weather conditions should be enhanced and customer services better protected. Harvard urges the Department to implement this and any other actions necessary to protect customers during weather emergencies.

B. Settlement Matters Relating To Future Proceedings Discussed In The Settlement Merit Further Review By The Department And Other Interested Parties

Harvard supports the immediate implementation of major components of the Settlement, but urges the Department to order the Companies to immediately engage with parties to the Companies' previous rate proceedings to discuss issues related to the merger of the NSTAR distribution companies and future rate-related issues before those filings are presented to the Department. The Department should not approve significant changes in rate design related to shifting the cost responsibility among the Companies and among individual tariffs for those Companies without the full investigation required to ensure that the resulting rates as designed are just and reasonable.

Equally important, the proposed Settlement can possibly be read to imply Department pre-approval of a merger of the NSTAR distribution companies and an equalization of the rates among the three companies. In Harvard's view, the Department should not draw any such conclusion from the Settlement. Instead, we request that the Department reaffirm that the merits of such action cannot be determined until NSTAR files for approval of the merger and demonstrates that it has met the Department's public interest standard. See Joint Petition of

Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company and Commonwealth Gas Company, D.T.E. 99-19, pp. 11-13.

C. Position Summary

Harvard supports the immediate implementation of the major components of the Settlement, but wishes to emphasize that the solicitation of public input remains critical to fulfilling the Companies' service obligation as well as the Department's statutory obligation. There are specific aspects of the Settlement as proposed[1] that deserve and demand greater public participation before any Department approval can be deemed to satisfy the public interest.

Annual review of the Companies' proposed PBR filings and the multiple other reconciliation filings including those pertaining to the transition charge, the transmission charge, standard offer cost and default service costs should take place in future proceedings which provide all stakeholders with the ability to participate and respond in a timely fashion.

III. SPECIFIC MATTERS REQUIRING FURTHER REVIEW AND COMMENT

A. Department Orders That Relate To Future Proceedings In The Settlement Must Encourage Participation From All Parties In Future Negotiations Contemplated By The Settlement Agreement.

Harvard appreciates the significant effort made by the Companies and the Attorney General in crafting such a broad based settlement in terms of both scope of issues and length of time related to future litigation of those issues. However, the Settlement process could have been improved if other parties who have actively participated in previous base rate and merger proceedings before the Department were invited to discuss a potential Settlement earlier than the day before the Settlement Agreement was filed. Any fair settlement requires a more broad-based

[1] Harvard notes that the Settlement does not address critical commercial and industrial issues, including power interruption and customer load demand issues, perhaps because, in large part, commercial and industrial parties were not included in the negotiations to the Settlement. Commercial and industrial customers play a vital role in the economic viability of this Commonwealth and merit inclusion in such negotiations along with other stakeholders.

coalition of customer interests to participate in negotiations. The Department should order the Companies to include, at a minimum, all parties to previous rate proceedings involving any of the NSTAR Companies in future negotiations before the Companies make any of the filings contemplated under the Settlement or any other related filings.

In particular, the provisions of paragraphs 2.11 and 2.12 dealing with future rate design and terms and conditions of service, and 2.16 through 2.18 dealing with merger-related filings, contemplate prefiling consultations between the parties to the Settlement. The Department should direct the Companies to solicit participation from all parties who have previously participated in base rate, rate design, and merger issues in earlier Department proceedings at the initial point in the discussions to allow for a meaningful exchange regarding those issues. Otherwise, the prospect of lengthy and costly litigation which the Companies want to minimize may not be avoided.[2]

As Mr. Judge testifies, the primary driver of this rate increase is the Companies' ongoing and dramatic increase in its infrastructure investment for both distribution and transmission customers. See Exh. NSTAR-JJJ-1, page 12-13. Harvard certainly commends the Companies for their serious commitment to enhanced reliability and service quality. However, to date, the Companies have not sought to engage customers and encourage collaborative efforts to improve problems associated with poor performing circuits. Customer participation, including efforts to bolster local reliability within service territories, have been encouraged in other jurisdictions, including Connecticut, as a way to mitigate the costs of providing reliable service in load-congested areas. The Department should encourage the Companies to involve customers to

[2] Please note that the Companies identify the last three Boston Edison base rate cases as D.P.U./D.T.E. 96-23, D.P.U. 92-92 and D.P.U. 89-100. In each, the Department approved an offer of settlement regarding base rate increase but only after suspension, discovery and opportunity for hearings.

develop collaborative solutions to address local and system-wide reliability issues and mitigate the associated costs of providing service during these times of fast-rising energy prices.

B. Harvard Requests the Department to Note the Following Areas of Special Concern

There are several areas that relate to future issues discussed in the Settlement that are of particular concern to Harvard. These include:

- the merger of Cambridge, Commonwealth and Canal Electric Company, and Boston Edison into one entity, NSTAR Electric Company;
- post-merger distribution rates including uniform tariff terms and conditions, definitions and rate eligibility, proposals for consolidation and redesign of distribution rates and uniform charges for all parties;
- customer initiatives that relate to reliability and cost;
- conversion of the 13.8 kV facilities in Cambridge from transmission to distribution;
- "transition costs" definition.

We address each of these concerns briefly below and request that the Department review and investigate each of these issues before approving filings anticipated by the Settlement.

1. Merger Related Issues - Paragraph 2.16 of Settlement

There are several items in the Settlement related to the merger which will present significant service issues related to the merger itself. In D.T.E. 99-19, the Department approved a four-year rate plan for the Companies after which distribution rates established by the Department in any base rate proceeding would account for savings gained as a result of the merger, net of the recovery of merger-related costs. D.T.E. 99-19 at p. 10.

In subsequent filings, the Department accepted an updated revised estimate of savings through 2002 which indicated additional savings. These must be addressed in any Section 96 filing made by the Companies to effectuate the merger.

Harvard urges the Department to order the Companies to include all parties to D.T.E. 99-19 in any prefiling Settlement negotiations at a point early enough in the dialogue to allow all parties to fully participate before any filings related to the merger structure and approvals to the Department or the Federal Energy Regulatory Commission ("FERC"). To do otherwise could invite the costly and prolonged litigation that the Companies seek to avoid and reduce the merger savings which provide the cost justification for the restructuring of the Companies.

2. Post-Merger Distribution Rates - Paragraphs 2.11, 2.12 and 2.17

Pursuant to the Settlement, NSTAR Electric will maintain the existing separate tariffs for the three existing service territories that existed prior to the merger. All rate changes through January 1, 2010 will be limited to uniform increases or decreases pursuant to the provisions of paragraphs 2.6 and 2.8, although paragraph 2.9 states class-specific transition charge reconciliations will be continued.

These provisions prohibit new rate initiatives or tariff provision changes for the next four years. The need for examination of the appropriate level of the distribution of proposed base rate revenues among the Companies and between classes despite the Alternative Rate Stabilization Plan is crucial since as James Judge, Chief Financial Officer for the Companies clearly states in his prefiled testimony, "None of the Companies has filed for a base-rate increase for over ten years." Exh. NSTAR-JJJ-1, p. 4.

Harvard is anxious and willing to explore these areas with the Companies. New and revived rate issues such as time of use rates, demand response options, customer side self-generation and standby rates should be addressed in the near future to assist the Companies in minimizing costs and improving reliability. The Department must ensure tariff consolidation is only approved after a full base rate proceeding to address the appropriate allocation of revenues among and between the service territories and customer classes.[3]

3. Cost Allocation and Rate Redesign

With the passage of ten years, the Department must review the underlying cost information properly to establish the revenue requirements for each subsidiary, incorporate the merger-related savings and ensure rates are properly designed. Under the schedule proposed in the Settlement, the Companies will implement system-wide tariffs in 2010. Harvard believes that all parties must be involved in any proceeding that will be conducted to achieve this, as NSTAR rates play in the Massachusetts economy as the Department is fully aware.

Harvard notes that Mr. Judge's concern regarding refining the focus of programs to meet market-oriented objectives and whenever possible, coordinate their activities with other regional utilities and market players[4] could be unduly hampered if tariff provisions do not get updated within the next four years to address critical issues regarding ISO-NE's market rate design and potential changes to that design now pending before the FERC.

In the initial pages of his prefiled testimony, Mr. Judge discusses the risks facing the Companies and its customers. Harvard encourages the Companies to more actively collaborate with customers to identify possibilities relating to relief of congestion charges and local service reliability issues.

---

[3] As a party to the settlement in D.T.E. 03-121, the Energy Consortium agreed with NSTAR that standby rates would be reviewed as part of the next base rate proceeding. The opportunity to do so has been foreclosed by this Settlement if approved as filed. We urge the Department to mandate that such review be incorporated in the next base rate proceeding and limit its approval of any rate tariff provisions other than the application of the per kWh charge contemplated by the Settlement.

[4] Exh. NSTAR-JJJ-1, page 19.

4. Customer Initiatives Related to Local Reliability Concerns

Participating at the FERC regarding unnecessary RMR costs as discussed in paragraph 2.34 is not enough. Other jurisdictions such as Connecticut have directed utilities to take multiple approaches to improving reliability while minimizing costs. In particular, customers with self-generation options, load control abilities and equipment which provide options which can aid the Companies in address local reliability and service quality options provide an untapped resource for the Department and the Companies to collaboratively address these issues.

NSTAR should collaborate with customers to identify areas and implement actions where system reliability could be improved and maintained by customer-side initiatives. These areas include combined heat and power installations, alternative resource installations, energy efficiency and local development issues. The Department should consider initiating a proceeding to address these issues which solicits inputs from all stakeholders.

5. Merger and Facilities Reclassification

Pursuant to paragraph 2.18, the Companies have announced their plans to change the FERC transmission rates of Cambridge and Commonwealth and to reclassify certain 13.8 kilovolt (kV) facilities that were last addressed by the Department in D.P.U./D.T.E. 97-93 (1998). The Settling Parties have agreed that the reclassification should take place in 2007 after the merger is consummated. This change will have an immediate substantial impact on consumers such as Harvard that are served by the 13.8 kV system. A full review of the impact of this reclassification of 13.8 kV facilities must be provided and filed subject to Department approval before such a reclassification is completed.

Harvard urges the Department to make clear that any approval of the Settlement proposed in this docket does not constitute tacit preapproval of the reclassification of the 13.8 kV facilities.

The Department should carefully examine the ramifications of the proposed reclassification and the potential role for those facilities in creatively addressing reliability issues.

6. Statutory Limitations on Costs to be Recovered through the Transition Charge

As previously noted in these Comments, the transition charge is a unique regulatory charge, created specifically to effectuate the restructuring of the electric industry and the resulting costs associated with the divestiture of the Company's generation and purchased power obligations under the previous regulatory structure. In the prefiled testimony of Christine L. Vaughan, Exhibit BEC-CLV, at page 7, Ms. Vaughn states the purpose of the transition charge:

> As approved by the Department as part of Boston Edison's Restructuring Settlement, D.P.U./ D.T.E. 96-23, and as set forth in the Act, the Transition Charge recovers the above-market costs of generation-related investments and obligations that electric companies have undertaken to provide service to their customers under traditional utility regulation. The Act authorizes and directs the Department to allow any approved transition costs to be recovered from customers through a non-bypassable Transition Charge collected by the distribution company providing service to such customers. G.L. c. 164, Sec. 1G(e).

The Companies' testimony in the annual transition costs dockets, D.T.E. 05-88 and D.T.E. 05-89 clearly recognizes the strict limitations on the items which can be recovered through the transition charge. The Act does not provide for recovery of other types of costs through the transition charge. Going forward, the Department must ensure this statutory limitations is respected.

IV. CONCLUSION

Wherefore, based on the foregoing, the President and Fellows of Harvard College respectfully requests the Department to approve and order the Companies to implement portions of the proposed Settlement relating to assistance to low-income consumers (paragraph 2.24), service quality and reliability improvement (paragraphs 2.23 through 2.31) and revenue decreases (paragraphs 2.2 and 2.4) but to reserve judgment on the issues related to future filings on transmission and distribution rate design, merger approvals and tariff consolidations based on the insufficiency of the evidence presented at this time.

Respectfully submitted,
On behalf of
PRESIDENT AND FELLOWS OF HARVARD COLLEGE

John A. DeTore (das)

John A. DeTore
Rubin and Rudman LLC
50 Rowes Wharf
Boston, MA 02110
Telephone: 617-330-7000
Facsimile: 617-439-9556

Date: December 20, 2005